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| EXAMINER |
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CHENCINSKI, SIEGFRIED E

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PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/991,497
Filing Date: November 15, 2001
Appellant(s): ALLEN-ROUMAN ET AL.

Att'y Clark F. Weight
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 15, 2010 appealing from the Office action mailed March 2, 2010.

(1) Real Party In Interest

The real parties in interest in U.S. Application No. 09/991,497 are First Data Corporation and The Western Union Company.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

Claims 1-10, 12-18, and 20-22 are currently pending.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

Whether claims 1, 12, and 20 are unpatentable under 35 U.S.C. § 103(a) over Rosen in view of Kolling and AAPA.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

| | |
|------------------------------|---------------------|
| Rosen | US Patent 5,557,518 |
| Kolling et al. | US Patent 5,920,847 |
| Applicant Admitted Prior Art | |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Applicant Admitted Prior Art

1. The following information have become Applicant Admitted Prior Art (hereafter AAPA):
 - a) the sending and receiving of credits and debits electronically between accounts;
 - b) that the first party on whose behalf the bill payer/third party is transferring funds to the second party rarely if ever receives confirmation information before the bill pay service transmits the funds to the biller and the funds clear, which clear the same day or within a few days in the case of checks.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10,12-18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen (US Patent 5,557,518) in view of Kolling et al. (US Patent 5,920,847, hereafter Kolling) and Applicant Admitted Prior Art (hereafter AAPA).

Re. Claim 1, Rosen discloses a method for transferring funds in an online transaction between a first party and a second party, the method comprising steps of:

- determining a first account associated with the first party (Fig. 2, Col. 5, ll. 38-43);
- determining a second account associated with the second party, wherein at least one of the first account and the second account is a bank account (Fig. 35B);
- initiating a first transfer between the first account and a third account (Col. 3, l. 66 – Col. 4, l. 3);
- receiving notification that the first transfer has cleared (This is implicit in Rosen).

Rosen does not explicitly disclose

- receiving payment information from the first party, the payment information including a payee identification;
- providing a third account, the third account not associated with either the first party or the second party, wherein the third account is a stored value account, the third account receiving credits from the first account and debits from the second account, wherein the stored value account holds value funds;
- initiating a second transfer between the third account and the second account, wherein the second-listed initiating step occurs before the receiving step ???;
- receiving payee information from the second party, the payee information including the payee identification;
- checking the payee identification received from the second party with the payment information; and

- if the payee identification received from the second party is the same as the payment information, initiating a second transfer from the third account to the second account, wherein initiating the second transfer occurs before receiving notification that the first transfer has cleared.
- If the payee identification received from the second party is not the same as the payment information, denying the second transfer from the third account to the second account.

However, Kolling discloses

- 1) receiving payment information from the first party, the payment information including a payee identification (Abstract, ll. 3-12);
 - 2) if the payee identification received from the second party is the same as the payment information (Col. 11, ll. 34-56), initiating a second transfer between the third account and the second account, wherein the second-listed initiating step occurs before the receiving step (Col. 2, ll. 26-29).
 - 3) If the payee identification received from the second party is not the same as the payment information, denying the second transfer from the third account to the second account. (Col. 29, ll. 38-41).
- 3) Further, Kolling discloses a number of ways in which bill pay service payments were functioning at the time of Kolling's disclosure (Col. 2, ll. 7- Col. 3, l. 4). These include electronic remittances to the biller party and check methods sent through the US Mail. The reason that the ordinary practitioner of the art would have seen it as obvious that the second-listed initiating step occurs before the receiving step in Kolling is because such a practitioner would have known how the various ways of funds transactions work when bill pay services are involved.

Regarding stored value accounts, applicant's specification treats them in passing in only one place, page 16, ll. 30-31, as part of an unlimited variety of accounts from, to or through which electronic funds transfers can be made between financial institutions such as banks or within such institutions (Specification, p. 16. ll. 24-32). As such, stored value accounts are among a long list of accounts through which funds can be electronically transferred as long as such an account or entity is connected to the

electronic funds transfer network, such list ending with “etc.”. Kolling discloses the transfer of funds to or through “any other party connected to the network” (Col. 11, ll. 20-21). As such, the ordinary practitioner who, by definition would have been familiar with the ACH, FTS and other funds transfer networks would have seen it as obvious to transfer funds through a stored value account among the many other kinds of accounts through which funds can be transferred because they are connected to the electronic funds transfer network(s). It would also have been obvious to the practitioner that a stored value account holds value funds, since that is definitional.

Kolling also discloses checking the payee identification received from the second party with the payment information (Col. 11, ll. 38-42, 50-51). Also, Kolling disclosure includes the further identification/authorization/security step of then initiating the related transfer.

AAPA discloses: a) the sending and receiving of credits and debits electronically between accounts; b) that the first party on whose behalf the bill payer/third party is transferring funds to the second party rarely if ever receives confirmation information before the bill pay service transmits the funds to the biller and the funds clear, which clear the same day or within a few days in the case of checks. The first party (payer) usually receives such confirmations in a monthly statement from his bank and from his bill pay service.

Thus, normally, funds transferred from the third party to the second party biller typically are transferred to the second party prior to the first party payer receiving a funds clearance message, since those messages are typically contained in the bill pay service's monthly statement to the first party payer. In fact, often payees don't even receive an explicit funds clearance notification, since such clearance is an implicit event in a monthly statement.

Further, the ordinary practitioner also would have known that in the case of electronic transfers, such as from the payer to the transfer server, and from the transfer server to the payee, the payer would almost always only have received notice of funds clearance after the second transfer has cleared, even when the payer receives a funds clearance message; and c) that it would have been an obvious option for the third party

to transmit clearance information about the first party's funds transfer to the third party a service accommodation to positively verify that the first party's transfer was completed in the funds transfer system, thus implicitly giving assurance to the first party payer that the third party's payment to the second party would be or already had been made according to the business understanding between the first and third party.

Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Kolling, Col. 1, ll. 17-20).

Re. Claim 2, Rosen does not explicitly disclose wherein the first-listed and second-listed initiating steps occur as part of the same session with the automated clearinghouse (ACH) network. However, Kolling discloses the clearance of payment transfers through the ACH network (Col. 9, ll. 23-38, 54, 64, 66). It is obvious that the first-listed and second-listed initiating steps can occur as part of the same session with the automated clearinghouse (ACH) network. Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 3, Rosen does not explicitly disclose wherein at least one of the first initiating step and the second initiating step comprise a step of sending transfer information to the ACH network. However, Kolling discloses the clearance of payment transfers through the ACH network (Col. 9, ll. 23-38, 54, 64, 66). It is obvious that at least one of the first initiating step and the second initiating step can comprise a step of sending transfer information to the ACH network. Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the

disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 4, it is obvious in Rosen's disclosure that both the first account and the second account can be bank accounts (Fig. 35A, Fig. 41; Fig. 44; Col. 33, ll. 61-64; col. 40, ll. 53-67; Col. 42, ll. 39-44). Further, Kolling discloses that both the first account and the second account are bank accounts (Col. 9, ll. 23-37). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 5, neither Rosen or AAPA explicitly disclose storing information on a plurality of accounts associated with the first party; and receiving selection of the first account from the plurality of accounts. However, Kolling discloses storing information on a plurality of accounts associated with the first party; and receiving selection of the first account from the plurality of accounts (Cl. 11, ll. 14-33). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 6, Rosen does not explicitly disclose the steps of determining types of accounts acceptable to the second party as funds sources; culling the plurality of accounts to present only account types acceptable to the second party; and presenting the culled plurality of accounts to the first party. However, Kolling discloses the steps of

determining types of accounts acceptable to the second party as funds sources (Col. 22, ll. 30-33); culling the plurality of accounts to present only account types acceptable to the second party and presenting the culled plurality of accounts to the first party (Col. 22, ll. 35-62. Culling is implicit). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 7, Rosen does not explicitly disclose wherein a first amount of the first transfer is larger than a second amount of the second transfer. However, Kolling discloses that the first transfer is larger than a second amount of the second transfer through the deduction of a fee from the first transfer prior to the making of the second transfer (Col. 11, ll. 56-59). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 8, Rosen discloses wherein first account information for the first account is not accessible to the second party (Col. 1, l. 67).

Re. Claim 9, Rosen does not explicitly disclose deducting a service fee from a first amount of the first transfer to determine a second amount of the second transfer. However, Kolling discloses deducting a service fee from a first amount of the first transfer to determine a second amount of the second transfer (Col. 11, ll. 56-59). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling for the purpose of presenting a method of transferring funds in an online transaction

between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 10, Rosen does not explicitly disclose wherein the second-listed initiating step is automatically performed. However, Kolling discloses transferring funds between a first party and a second party wherein the second-listed initiating step is automatically performed (Col. 11, ll. 14-33).

Re. Claim 12, Rosen discloses a method for transferring funds in an online transaction between a first party and a second party, the method comprising steps of:

- determining a first account associated with the first party (Fig. 2, Col. 5, ll. 38-43);
- determining a second account associated with the second party (Fig. 35B);
- initiating a first transfer from the first account to the third account, wherein the third account is not associated with either the first party or the second party (Col. 3, l. 66 – Col. 4, l. 3);
- receiving notification that the first transfer has cleared (This is implicit in Rosen).

Rosen does not explicitly disclose

- receiving payment information from the first party, the payment information determining a first account associated with the first party;
 - sending transfer information to the automated clearinghouse (ACH) network
 - providing a third account, the third account not associated with either the first party or the second party, wherein the third account is a temporary stored value fund, the third account receiving credits from the first account and debits from the second account, wherein the stored value account holds value funds;
 - initiating a second transfer between the third account and the second account, wherein the second-listed initiating step occurs before the receiving step;
 - receiving notification, from the third account, that the first transfer has cleared;
- and

- initiating, substantially simultaneously with the first transfer, a second transfer from the third account to the second account, wherein initiating the second transfer occurs before the first transfer has cleared, and wherein the second transfer creates a reverse float. .

Please see the rejection of claim 1 for the disclosures of Kolling and AAPA. Further, Kolling discloses receiving payment information from the first party, the payment information determining a first account associated with the first party (Abstract, ll. 3-12); Kolling also discloses a step of sending transfer information to the automated clearinghouse (ACH) network (Col. 2, ll. 26-29). Kolling also discloses or suggests initiating, substantially simultaneously with the first transfer, a second transfer from the third account to the second account, wherein initiating the second transfer occurs before receiving notification that the first transfer has cleared, wherein the second transfer creates reverse float (Col. 12, ll. 10-14, 20-23. Thus scenario creates a reverse float, Since the bank is transmitting funds forward without having first secured the funds from the consumer on whose behalf the funds are being forwarded.). .

Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of a plurality of funds transfers in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Kolling, Col. 1, ll. 17-20).

Re. Claim 13, Rosen discloses a method for transferring funds in the online transaction between the first party and the second party wherein at least one of the first account and the second account is a bank account (Fig. 35A, Fig. 41; Fig. 44; Col. 33, ll. 61-64; col. 40, ll. 53-67; Col. 42, ll. 39-44).

Re. Claim 14, it is obvious in Rosen's disclosure that both the first account and the second account can be bank accounts (Fig. 35A, Fig. 41; Fig. 44; Col. 33, ll. 61-64; col. 40, ll. 53-67; Col. 42, ll. 39-44). Further, Kolling discloses that both the first account and the second account are bank accounts (Col. 9, ll. 23-37). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have

combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 15, Rosen discloses a method, wherein the first-listed and second-listed initiating steps occur substantially simultaneously (Col. 23, ll. 62-64).

Re. Claim 16, Rosen discloses a method for storing information on a plurality of accounts associated with the first party; and receiving selection of the first account from the plurality of accounts. Further, Kolling discloses storing information on a plurality of accounts associated with the first party; and receiving selection of the first account from the plurality of accounts (Cl. 11, ll. 14-33). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 17, neither Rosen nor AAPA explicitly disclose the steps of determining types of accounts acceptable to the second party as funds sources; culling the plurality of accounts to present only account types acceptable to the second party; and presenting the culled plurality of accounts to the first party. However, Kolling discloses the steps of determining types of accounts acceptable to the second party as funds sources (Col. 22, ll. 30-33); culling the plurality of accounts to present only account types acceptable to the second party and presenting the culled plurality of accounts to the first party (Col. 22, ll. 35-62. Culling is implicit). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants,

service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 18, neither Rosen nor AAPA explicitly disclose wherein a first amount of the first transfer is larger than a second amount of the second transfer. However, Kolling discloses that the first transfer is larger than a second amount of the second transfer through the deduction of a fee from the first transfer prior to the making of the second transfer (Col. 11, ll. 56-59). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

Re. Claim 20, Rosen discloses a method for transferring funds in an online transaction between a first party and a second party as described in the rejections of claims 1-19 above, including

- storing information on a plurality of accounts associated with the first party (implicit);
- receiving selection of a first account from the plurality of accounts; determining a second account associated with the second party (Fig. 35B);
- receiving notification that the first transfer has cleared (This is implicit in Rosen).
- initiating a first transfer from the first account to the third account (Col. 3, l. 66 – Col. 4, l. 3);
- determining a second account associated with the second party (implicit);

Rosen does not explicitly disclose:

- receiving payment information from the first party, the payment information including a payee identification;
- providing a third account, the third account not associated with either the first party or the second party, wherein the third account is a stored value account,

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the third account receiving credits from the first account and debits from the second account, wherein the stored value account holds value funds;

- wherein initiating the first transfer comprises sending transfer information to the automated clearinghouse (ACH) network;
- providing a third account, the third account not associated with either the first party or the second party, wherein the third account is a temporary stored value fund, the third account receiving credits from the first account and debits from the second account;
- receiving notification, from the third account, that the first transfer has cleared;
- receiving payee information from the second party, the payee information including the payee identification;
- checking the payee identification received from the second party with the payment information; and
- if the payee identification received from the second party is the same as the payment information, initiating a second transfer from the third account to the second account, wherein initiating the second transfer occurs before the first transfer has cleared, wherein initiating the first transfer comprises sending transfer information to the automated clearinghouse (ACH) network;
- If the payee identification received from the second party is not the same as the payment information, denying the second transfer from the third account to the second account.
- wherein, a first amount of the first transfer is larger than a second amount of the second transfer; and
- wherein, the information on the plurality of accounts is not accessible to the second party.

Please see the rejections of claims 1 & 12 for the disclosures of Kolling and AAPA.

Further, it would have been obvious to the ordinary practitioner that a first amount of the first transfer would be larger than a second amount of the second transfer in such cases as when a transfer fee charged by the third party transfer service is included in the first

party's transfer amount. It would also have been obvious to the practitioner that the plurality of accounts is not accessible to the second party since the third party must maintain account information confidential from payee parties. Also, Kolling teaching of checking payee identification information includes the teaching or suggestion for initiating the related transfer when the information matches (Col. 11, ll. 38-42, 50-51). Kolling also discloses receiving payee information from the second party (the biller or biller's bank), the payee information including the payee identification (Fig. 9, Fig's 1-8; Col. 11, ll. 17, 50-51).

Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of making a plurality of funds transfers in an online transaction between a first party and a second party, motivated by a desire to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Kolling, Col. 1, ll. 17-20).

Re. Claim 21, Rosen discloses a method of determining types of accounts acceptable to the second party as funds sources;

culling the plurality of accounts to present only account types acceptable by the second party; and

presenting the culled plurality of accounts to the first party.

Re. Claim 22, neither Rosen nor AAPA explicitly disclose a method wherein authorization by the first party triggers automatic performance of the two initiating steps and the second-listed receiving step. However, Kolling discloses a method wherein authorization by the first party triggers automatic performance of the two initiating steps and the second-listed receiving step (Col. 11, ll. 5-33. The automatically triggered steps are implicit). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Rosen with those of Kolling and AAPA for the purpose of presenting a method of transferring funds in an online transaction between a first party and a second party, motivated by a desire

to offer a system to pay amounts owed to merchants, service providers and other billers who bill consumers or businesses for amounts owed (Col. 1, ll. 17-20).

(10) Response to Argument

ARGUMENT A: “Specifically, none of the cited references teach or suggest

(1) "initiating a second transfer from the third account to the second account",
(2) “[where] initiating the second transfer occurs before the first transfer has cleared”
and

(3) where "the third account [is] not associated with either the first party or the second party[.]” (p. 7, ll. 20-23) (numbering added).

RESPONSE:

Overview:

The claimed invention is for a programmed computer automated process where computer security is used for verifying the correct parties to the three way transactions in an electronic bill pay service.

First, the claimed invention concerns itself or describes a typical bill pay service arrangement where the first account is that of a payee who provides funds credits (i.e. positive funds), the second account is that of a payor who is one who is owed funds by the payee (the first account) and thus issues billings or debits, and the third account is the bill service intermediary or clearing bank who provides the service of transmitting funds for the payee to the payor through electronic means. Such services had become ubiquitous in the American economy by the time of Appellant’s invention.

Second, the claimed first transfer is the transfer of funds from the first (payee) account to the third (bill service intermediary) account for the purposes of transmitting funds to the second account (the payor who has issued a debit against the payee for services rendered or per some eligible contracted service if payment is to be made in advance, such as rent). These funds are transferred by the payee’s (i.e. first account’s) bank, and, per old banking practice, may or may not require that good funds are the payee

customer's (first) account at the time of transmitting funds to the billing service or settlement bank.

Finally, the second transfer is the transfer of payee's funds by the third party intermediary to the second party payor who is due the funds based on the debit the payor has issued.

Kolling describes this entire set of steps and process as follows, including the option for banks to take the risk of paying funds without having confirmed funds in their customer's account::

Re. (1) "Initiating a second transfer from the third account to the second account" is disclosed in Col. 2, ll. 26-29, as cited in the above rejection. Additional locations of this disclosure begin in the Abstract, ll. 12-15, Figures 4-8, and Col. 11, l. 3 – Col. 13, l. 9, which is the summary of several embodiments of the Kolling invention Kolling labels Appellant's accounts as follows per the Abstract and Fig's 4-8:

- Appellant's first account (the consumer/customer payee account) as account in bank C;
- Appellant's second account (the biller account) as account in bank B; and
- Appellant's third account (the bill service provider or settlement bank), as the settlement bank with its transaction account(s).

"Initiating a second transfer from the third account to the second account" is disclosed by the settlement bank as service provider (#s 128, 130, 104 and 106) transferring funds received from Bank C and residing in its holding account to Bank B (#'s 40, 28 and 26-B's account). Kolling discloses that the settlement bank's function in Fig's 4-8 fulfills the role of the bill service bureau disclosed as prior art in Fig. 2.

Re. (2) "[where] initiating the second transfer occurs before the first transfer has cleared".

Kolling discloses this feature by disclosing that the banks have the option of transferring funds before funds have cleared by assuming the risk that the funds may not be available in the customer's account when the customer's bank wants to take the funds involved out of the customer's account to pay for the funds already transferred to the

settlement bank and in turn to the biller (Abstract, ll. 22-24; Col. 12, ll. 11-12, 22-23). This would have meant to the ordinary practitioner at the time of Appellant's Invention "initiating the second transfer (can) occur before the first transfer has cleared".by having the first account holder's bank take the risk, which is what Appellant argues is the implication of this claimed limitation (Reverse float description (not claimed) – p. 7, ll. 23-27). The ordinary practitioner would have seen it as obvious that either Bank C or Bank B (i.e. either Appellant's first account bank or third account bank or even service provider) can take this risk. Further, the practitioner(s), who being a banker or team of personnel working in banking related transactions such as represented by Kolling's team of two inventors or Appellant's team of three inventors, would have seen the obviousness of making use of this risk option. They most likely would have already even known that banks have traditionally taken risks by transferring funds without pre-confirming good funds in a customer account. This was an ages old ubiquitous feature in banking practice known to both consumers and bankers at the time of Appellant's invention.

Re. (3) "the third account [is] not associated with either the first party or the second party".

Kolling discloses that the equivalent of Appellant's third account "[is] not associated with either the first party or the second party" (Abstract; Fig's 4-8; such as in Fig. 4 – First Account Equivalent: Consumer C, #'s 12, 16, 22; Second Account Equivalent: Biller B, 3s 14, 18, 26; and Third Account Equivalent: Settlement Bank, Fig's 128, 104, 106). These are arms length legal entities engaging in banking relationships through the ACH (Automated Clearing House) electronic system.

ARGUMENT B: "Therefore, the Official Notice does not teach or suggest, alone or in combination with Rosen and/or Kolling, "initiating a second transfer from the third account to the second account, wherein initiating the second transfer occurs *before the first transfer has cleared[.]*" " (p. 11, ll. 6-9).

Supporting Arguments:

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RESPONSE:

This argument is moot since the examiner's response to Argument A above demonstrates that Kolling discloses and/or suggests these limitations, i.e. that:

1. "initiating a second transfer from the third account to the second account", and
2. "wherein initiating the second transfer occurs *before the first transfer has cleared*".

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Siegfried E. Chencinski/

Examiner, Art Unit 3695

Conferees:

Vincent Millin /vm/
Appeals Practice Specialist

/Charles R. Kyle/

Supervisory Patent Examiner, Art Unit 3695